

In response to the Examiner's restriction/election requirement, Applicant elects, with traverse, to prosecute Group I including claims 1-12. Applicant specifically reserves the right to file a divisional application directed to non elected claims 13-22.

With respect to Applicant's traversal, Applicant respectfully directs the Examiner's attention to M.P.E.P. § 803 which states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine on the merits, even though it includes claims too distinct or independent invention." (emphasis added)

There are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

"2) there must be a serious burden on the Examiner if a restriction is not required. See M.P.E.P. §803.092, 806.04 A through J, 808.01(a) and 808.02."

Applicant respectfully submits that the Examiner would not be unduly burdened if forced to examine Groups I and II.

Further, Applicants consider the claims to define one single inventive concept. The subject application is a national phase of a PCT application. Hence, according to PCT Article 27(1), the unity requirement applicable in this case is the requirement given in the PCT regulations. Further, according to PCT Rule 13.2 the requirement of unity shall be considered fulfilled "...when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features." Further, in the same rule, the definition of the term "special technical features" is given as "those technical features that

define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art".

The Examiner has recognized that the PCT regulations regarding unity of invention are applicable, but the meaning of said PCT regulations seem to be misinterpreted. The relevant question is in this case whether the independent claims comprise corresponding features defining a contribution over the prior art, not if the method could be practiced using a different apparatus, or vice versa.

In the present case, the independent claims as filed during phase II of the PCT procedure (dated March 13, 2001) do comprise corresponding special technical features, defining a contribution over the prior art, as is discussed more thoroughly in the International Preliminary Examination Report of May 5, 2001. Hence, according to PCT Rule 13.2 the claims in Group I and II form a single inventive concept, and should be allowed to reside in the same application.

Further, it is respectfully submitted that the argument presented by the Examiner in support of the alleged non-unity, is not irrelevant in assessing unity under the PCT regulations, and incorrect.

The method of claim 1 defines a step of exposing a substrate with a "radian energy", said substrate having a layer being sensitive to said "radian energy". In claim 2, the radiant energy is delimited to light, but in the meaning of claim 1 alone, any type of radiant energy could be used.

Claim 13 is concerned with a corresponding system, and i. a. defines exposing means for exposing a substrate with "radiant energy", said substrate being provided with a layer being sensitive to said "radiant energy". Accordingly, the radiation being used in claim 1 and claim 13 are defined in the same way, and using the same technical term ("radiant energy"). The same also applies for independent claim 21.

Accordingly, regardless of whether "radiant energy" encompasses electron beams, there is still no difference between the definitions used in the independent claims.

For all of the above stated reasons, reconsideration and withdrawal of the outstanding restriction/election requirement and favorable allowance of all claims in the instant application are earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a two (2) month extension of time for filing a reply to the outstanding Office Action and submit the required \$420.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

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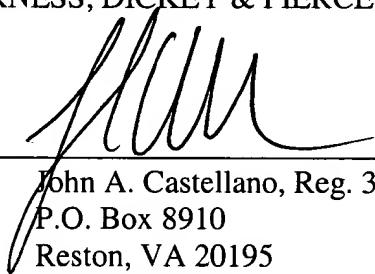
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, PLC

By 

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JAC/cah